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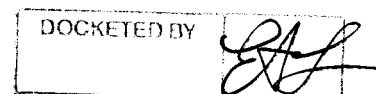
Via Overnight Delivery

April 15, 2014

Docket Control Center  
Arizona Corporation Commission  
1200 W. Washington Street, Room 108  
Phoenix, Arizona 85007-2996

Arizona Corporation Commission  
DOCKETED

APR 16 2014



RE: *Business Discount Plan, Inc. Notice to the ACC of Final Outcome of Its  
Dispute with the Federal Communications Commission Regarding  
Forfeiture Order, Docket No. T-03142A-96-0201*

Dear Sir/Madam:

Pursuant to the Arizona Corporation Commission's ("Commission") May 4, 2001 Decision No. 63625 in Docket No. T-03142A-96-0201, enclosed for submission to the Commission are an original and thirteen (13) copies of *Business Discount Plan, Inc. Notice to the ACC of Final Outcome of Its Dispute with the Federal Communications Commission Regarding Forfeiture Order*

With this submission, Business Discount Plan, Inc. advises the Commission of the final disposition of its dispute with the Federal Communications Commission over a forfeiture order.

Please acknowledge receipt of this filing by date-stamping and returning the additional copy of this transmittal letter in the self-addressed, postage-paid envelope provided for this purpose. Thank you for your attention to this matter. Questions may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.

Andrew O. Isar

Regulatory Consultants to  
Business Discount Plan, Inc.  
Enclosures

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ARIZONA CORPORATION COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A MUNDELL  
CHAIRMAN

JIM IRVIN  
COMMISSIONER

MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
BUSINESS DISCOUNT PLAN, INC. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES, EXCEPT  
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03142A-96-0201

DECISION NO. 36325

**BUSINESS DISCOUNT PLAN, INC. NOTICE TO THE ACC OF FINAL OUTCOME OF  
ITS DISPUTE WITH THE FEDERAL COMMUNICATIONS COMMISSION  
REGARDING FORFEITURE ORDER**

Business Discount Plan, Inc. ("BDP"), for its Notice to the Arizona Corporation  
Commission ("ACC" or "Commission") of Final Outcome of Its Dispute with the Federal  
Communications Commission ("FCC") regarding Forfeiture Order, respectfully states as follows:

1. By Order entered May 4, 2001, in Docket No. T-03142A-96-0201, Decision No. 63625, the ACC granted BDP a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competitive resold interexchange telecommunications services, except local exchange services.
2. In its Order, the ACC observed that the FCC, in its Report No. CC 90-46 dated December 17, 1998, had proposed a \$2.4 million forfeiture against BDP for allegedly engaging in unfair and unreasonable telemarketing practices and slamming. Order, at p. 4. The ACC further observed in its Order that BDP refuted all of the FCC's allegations and was appealing the forfeiture. *Id.* The ACC noted that BDP had not solicited any customers

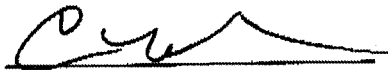
since 1998. *Id.* Thus, the ACC, in its Order granting BDP a CCN, prohibited BDP from soliciting new customers in Arizona without further order of the ACC pending the final outcome of its dispute with the FCC. Order, at p. 5. The ACC instructed BDP to file notice with the ACC of the final outcome of its dispute with the FCC. *Id.*

3. As noted by the ACC in its Order, BDP filed a response to the FCC's Notice of Apparent Liability of Forfeiture ("NAL") and refuted all of the FCC's allegations. On July 17, 2000, the FCC issued its Order of Forfeiture. *See* Order of Forfeiture, 15 FCC Rcd 14461 (2000). On December 7, 2000, the FCC issued its Order on Reconsideration reducing its proposed forfeiture against BDP by the 25% to \$1.8 million.
4. Pursuant to 47 U.S.C. § 504, a forfeiture issued by the FCC is recoverable in a civil suit in the name of the United States and the suit for recovery must be in a trial *de novo*.
5. Pursuant to 28 U.S.C. § 2462, the United States must commence a trial *de novo* within 5 years from the date when the claim first accrued.
6. BDP opted not to pay the forfeiture, but instead to challenge the forfeiture in a trial *de novo* against the United States if the United States commenced recovery of the forfeiture in a trial *de novo*. The United States, however, never commenced a trial *de novo*, or any other proceeding, against BDP, to recover the forfeiture.
7. As noted above, BDP has at all times refuted the FCC's proposed findings against BDP in its NAL, and BDP was prepared to challenge any attempt by the United States to recover the forfeiture in a trial *de novo*. BDP submits that the United States did not commence a trial *de novo* against BDP to recover forfeiture because BDP's response to the NAL showed that BDP did not violate any FCC rules and that the forfeiture was wholly unwarranted.

8. The United States chose not to pursue a trial *de novo* against BDP to collect the forfeiture, and it cannot commence a trial *de novo* at this juncture because the time to do so has long since passed as the cause of action accrued in or about 2005 -- approximately 9 years ago. Thus, the FCC's Forfeiture Order is effectively nullified and unenforceable, and this matter should be deemed closed.

Respectfully submitted this 15<sup>th</sup> day of April, 2014,

BUSINESS DISCOUNT PLAN, INC.

A handwritten signature in black ink, appearing to read 'Craig Konrad', is written over a horizontal line.

Craig Konrad, President  
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Long Beach, CA 90831  
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